

Regular Session, 2010

HOUSE BILL NO. 1008

BY REPRESENTATIVE HARRISON

INSURANCE/AUTOMOBILE: Provides relative to compensating an owner of a vehicle for the depreciation in the value of that vehicle after it has been repaired

1 AN ACT

2 To amend and reenact R.S. 22:1892(B)(4), relative to property and casualty insurance claims
3 payment; to provide for compensation for the diminution in the value of a vehicle
4 that has been repaired after an accident; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 22:1892(B)(4) is hereby amended and reenacted to read as follows:

7 §1892. Payment and adjustment of claims, policies other than life and health and
8 accident; personal vehicle damage claims; extension of time to respond to
9 claims during emergency or disaster; penalties; arson-related claims
10 suspension

11 * * *

12 B.

13 * * *

14 (4)(a) Whenever a property damage claim is on a personal vehicle owned by
15 the ~~third party~~ third-party claimant and as a direct consequence of the inactions of
16 the insurer and the ~~third party~~ third-party claimant's loss the ~~third party~~ third-party
17 claimant is deprived of use of the personal vehicle for more than five working days,
18 excluding Saturdays, Sundays, and holidays, the insurer responsible for payment of
19 the claim shall pay, to the extent legally responsible, for reasonable expenses
20 incurred by the ~~third party~~ third-party claimant in obtaining alternative transportation

1 for the entire period of time during which the ~~third-party~~ third-party claimant is
2 without the use of his personal vehicle. Failure to make such payment within thirty
3 days after receipt of adequate written proof and demand therefor, when such failure
4 is found to be arbitrary, capricious, or without probable cause shall subject the
5 insurer to, in addition to the amount of such reasonable expenses incurred, a
6 reasonable penalty not to exceed ten percent of such reasonable expenses or one
7 thousand dollars, whichever is greater together, with reasonable ~~attorneys~~ attorney
8 fees for the collection of such expenses.

9 (b) Whenever a motor vehicle is damaged through the negligence of an
10 insured party without being destroyed, and is repaired, and its fair market value after
11 repair is less than its value before it was damaged, the owner of the damaged vehicle
12 shall be entitled to recover compensation, from the insurer or insured, for both the
13 cost of repair and an amount representing the diminution in the value of the vehicle.

14 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Harrison

HB No. 1008

Abstract: Provides for compensation of the owner of a damaged vehicle that depreciated as the result of an insured party.

Present law provides that whenever a property damage claim is on a personal vehicle owned by the third-party claimant and as a direct consequence of the inactions of the insurer and the third-party claimant's loss the third-party claimant is deprived of use of the personal vehicle for more than five working days, excluding Saturdays, Sundays, and holidays, the insurer responsible for payment of the claim shall pay reasonable expenses incurred by the third-party claimant in obtaining alternative transportation for the entire period of time during which the third-party claimant is without the use of his personal vehicle. Further, provides that the failure to make such payment within 30 days after receipt of adequate written proof and demand therefor, when such failure is found to be arbitrary, capricious, or without probable cause shall subject the insurer to a reasonable penalty not to exceed 10% of such reasonable expenses or \$1,000 whichever is greater together with reasonable attorney fees for the collection of such expenses.

Proposed law retains present law and adds a provision that provides that when a motor vehicle is damaged through the negligence of an insured without the vehicle being a total loss, and the vehicle is repaired, and its fair market value after such repair is less than its value before it was damaged, the owner of the damaged vehicle is entitled to recover

compensation, from the insurer or insured, for both the cost of the repair and an amount representing the diminution in the value of the vehicle.

(Amends R.S. 22:1892(B)(4))